

## **New Orleans Historic District/Landmarks Commission Enabling Legislation**

Enabling Legislation  
Ordinance (As Amended)

City Hall, February 19, 1976  
Calendar No. 6482

No. 5992 Mayor Council Series  
By: Councilman Friedler (By Request)  
Revised August 21, 1980

City of New Orleans

An Ordinance creating and empowering the New Orleans Historic District/Landmarks Commission to regulate, preserve, and protect historic districts and landmarks within the City of New Orleans; and providing for the powers, duties, authority, and standards of said Commission; and repealing Ordinance Number 5643 M.C.S.

Section I. The Council of the City of New Orleans hereby ordains, that the purpose of this ordinance is to promote historic districts and landmarks for the educational, cultural, economic and general welfare of the public through the preservation, protection, and regulation of buildings, sites, monuments, structures, and areas of historic interest or importance within the City of New Orleans; to safeguard the heritage of the City by preserving and regulating historic landmarks and districts which reflect elements of its cultural, social, economic, political and architectural history; to preserve and enhance the environmental quality of neighborhoods; to strengthen the City's economic base by the stimulation of the tourist industry; to establish and improve property values; to foster economic development; and to manage growth.

Section II. New Orleans Historic District Landmarks Commission.

The City Council of New Orleans hereby repeals Ordinance Number 5643 M.C.S, and creates a commission to be known as the New Orleans Historic District Landmarks Commission, for the purpose of regulating historic districts and historic landmarks designated within the city of New Orleans pursuant to State Constitution of 1974 and Acts 273 of 1974 and 804 of 1975 and the provisions of this ordinance. The Commission shall consist initially of nine (9) members, appointed by the Mayor subject to approval of a majority vote of the City Council for four (4) year terms each except that the terms of members of the first Commission shall be "staggered" as follows: three (3) members for four (4) year terms, two (2) members for three (3) year terms, two (2) members for two (2) year terms, and two (2) members for one (1) year terms. Successors shall serve four (4) years terms thereafter. Vacancies on the Commission shall be filled for the remainder of the unexpired term(s). A chairman and vice-chairman shall be elected annually from the members of said Commission. All members shall serve without compensation. Any member may be appointed to another term or terms. Vacancies shall be filled by appointment in the same manner as the original appointments.

For each historic district created by the City Council, not less than one (1) member shall be appointed (whether by appointment or reappointment) who shall be a resident or property owner within said historic district. The total membership of the Commission shall not exceed fifteen (15) members.

### Section III. Qualifications for Membership.

Members of the Commission must be electors and residents of the Parish of Orleans.

### Section IV. Power and Duties.

The Commission shall exercise only those powers and duties granted by this ordinance or those powers and duties which may be assigned to it at a later time by the City Council.

### Section V. Definitions.

For the purpose of this ordinance the following definitions shall apply:

A. Alteration. Any change because of construction, repair, maintenance, or otherwise to buildings located within an historic district or designated as a landmark.

B. Applicant. The record owner of the site and/or buildings located thereon, the lessee thereof, or a person holding a "bona fide" contract to purchase same.

C. Building. Any structure, place, or any other construction built for the shelter or enclosure of person, animals or chattels, or any part of such structure when subdivided by division walls or part walls extending to or above the roof and without openings in such separate walls. The term "a building" shall be construed as if followed by the words "or any part thereof."

D. Certificate of Appropriateness. A document evidencing approval of the Commission for work proposed by an applicant.

E. Commission. The Historic District/Landmarks Commission.

F. Construction. The erection of any on-site improvements on any parcel of ground located within an historic district or on a landmark site, whether the site is presently improved, unimproved, or hereafter becomes unimproved by "demolition," "demolition by neglect," destruction of the improvements located thereon by fire, windstorm, or other casualty, or otherwise (hereafter such a parcel of ground shall be referred to as "site").

G. Demolition. The complete or constructive removal by an applicant of a building on any site.

H. Demolition by Neglect. Neglect in the maintenance of any building resulting in any one or more of the following: (1) The deterioration of a building to the extent that it creates or permits a hazardous or unsafe condition as determined by the Department of Safety and Permits. (2) The deterioration of a building(s) characterized by one or more of the following: (a) Those buildings which have parts thereof which are so attached that they may fall and injure members of the public or property. (b) Deteriorated or inadequate foundation. (c) Defective or deteriorated floor supports or floor supports insufficient to carry imposed loads with safety. (d) Members of walls, or other vertical supports that split, lean, list, or

buckle due to defective material or deterioration. (e) Members of walls or other vertical supports that are insufficient to carry imposed loads with safety. (f) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members which sag, split, or buckle due to defective material or deterioration. (g) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are insufficient to carry imposed loads with safety. (h) Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration. (i) Any fault, defect, or condition in the building which renders the same structurally unsafe or not properly watertight. (3) Action by the City, the State First Marshall, or the Department of Safety and Permits relative to the safety or physical condition of any building.

I. Exterior. All outside surfaces of any building.

J. Historic District or District. An area designated by the City Council of New Orleans as an historic district and declared to be subject to jurisdiction of the Commission.

K. Landmark and Landmark Site. An unimproved parcel of ground (landmark site) or such parcel with improvements or such improvements without grounds (landmark), wheresoever located in the City of New Orleans, subject to the jurisdiction of the Historic District Landmarks Commission, of particular historic, architectural, or cultural significance, which said parcel or parcels, plus its improvements, if any, (1) exemplify or reflect the broad cultural, political, economic, or social history of the nation, state or community; or (2) are identified with historic personages or with important events in national, state, or local history; or (3) embody distinguishing characteristics of an architectural type, specimen, inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship; or (4) are representative of the notable work of a master builder, designer, or architect whose individual ability has been recognized.

L. Ordinary Repairs and Maintenance. Work done on a building in order to correct any deterioration, decay of, or damage to a building on any part thereof in order to restore same as nearly as practical to its condition prior to such deterioration, decay or damage.

## Section VI. Historic District Powers and Regulations.

A. No private building, structure, or edifice, including fences, boundary walls, signs, steps or seven (7) rises, and paving shall be erected, altered, restored, moved or demolished within any district until after an application for a Certificate of Appropriateness as to exterior architectural features has been submitted to and approved by the Commission. Similarly, if earthworks of historical or archaeological importance exist in a district, there shall be no excavating or moving of earth, rock, or subsoil without a Certificate of Appropriateness. For the purpose of this ordinance "exterior architectural features" shall include but not be limited to the architectural style, general design and general arrangement of a structure, including the kind and texture of the building material, the type and style of all roofs, windows, doors, and signs. The style, scale, materials, and location of outdoor advertising signs and bill posters within a district shall also be under the control of the Commission.

B. The Commission shall not consider interior arrangement or use, but shall consider the relationship of the exterior of the building concerned with all others in the district so as to avoid incongruity and promote harmony therewith. In all instances the Commission shall regulate those outside surfaces of a building that can be viewed from a public right of way or street.

C. Nothing in this ordinance shall be construed to prevent ordinary maintenance or repairs which do not involve a change of design, material, or of the outward appearance of a building.

#### Section VII. Certificate of Appropriateness.

A. The Commission shall prescribe the procedure for making application for a Certificate of Appropriateness.

B. The applicant shall have the right to a preliminary conference, upon applicant's request, with the Commission staff and any member of the Commission who chooses to attend after receiving a notice thereof, for the purpose of making any changes or adjustments to the application which might be more consistent with the Commission's standards.

C. The Commission shall hold a public hearing upon each application for a Certificate of Appropriateness affecting property under its control except in those instances where the Commission has determined the application for a Certificate of Appropriateness does not involve a material change or that the Commission has determined that the application complies with the standards adopted by said Commission in which case the Commission shall by appropriate means designate its approval. Notice of the time and place of said hearing shall be given by publication in the form of a legal advertisement appearing in the official journal of the City of New Orleans or in a newspaper having general circulation in Orleans Parish, at least seven (7) days before such hearing, and by posting of such notice on or near the main entrance of any hall or room where the Commission usually meets. In addition, notices shall be mailed at least seven (7) days prior to the date of such public hearing to (1) all adjacent property owners and to such other persons and/or organizations as the Commission may from time to time determine by policy, (2) the applicant, (3) the Director, City Planning Commission of the City of New Orleans, and (4) the Director, Department of Safety and Permits.

D. Within not more than forty-five (45) days after the filing of an application, the Commission shall act upon it, either approving, denying or deferring action, giving consideration to the factors set forth in Section VIII below. Evidence of approval of the application shall be by Certificate of Appropriateness issued by the Commission; and whatever its final decision, notice in writing shall be given to the applicant, the City Planning Commission, and the Department of Safety and Permits. The Commission shall keep a record of all applications for Certificates of Appropriateness and of all its actions under this ordinance or its rules and procedures.

E. No permit shall be issued by the Department of Safety and Permits which affects a site or structure in any district or a landmark or landmark site without a Certificate of Appropriateness.

F. The Commission shall have the right to make such recommendations for changes and modifications as it may deem to be necessary in order to enable the applicant to meet with its requirements.

G. Nothing contained in this section shall be construed as amending or revoking the provisions of the Comprehensive Zoning Ordinance of the City of New Orleans (Ordinance No. 4264 M.C.S., as amended).

H. Nothing contained herein shall prevent the making of any temporary construction, reconstruction, demolition or other repairs on a landmark, landmark site, or building in a district pursuant to the order

of any governmental agency or court for the purpose of remedying emergency conditions determined to be dangerous to life, health or property.

I. Where, by reason of topographical conditions, irregularly shaped lots, or because of unusual circumstances applicable solely to the particular applicant, strict enforcement of the provisions of this ordinance would result in serious undue hardship particularly affecting said applicant, then the Commission, in passing upon his application, shall have the power to vary or modify adherence to this ordinance; provided always that its requirements insure harmony with the general purposes hereof, and will not adversely affect an historic preservation district as a whole or any designated landmark. Guidelines for the application for this subpart shall be developed by the Commission as a part of its operational rules and procedures.

J. All Certificates of Appropriateness expire not later than six (6) months or such lesser period as designated by the staff of the Commission after date of issuance if work as specified is not begun or after a period of six months or such designated lesser period of insubstantial activity. Substantial work shall, to protect the continued validity of such Certificate of Appropriateness, proceed expeditiously to completion.

K. It shall be required that Certificates of Appropriateness be posted on buildings like building permits during the period of construction and the posting will be enforced.

#### Section VIII. Criteria for the Issuance of Certificates of Appropriateness.

The Commission shall adhere to and seek compatibility of structures in the district in terms of size, texture, scale, and site plan and in so doing, the following guidelines shall be considered by the Commission in passing upon applications for a Certificate of Appropriateness:

A. For new construction. (1) All new construction shall be visually compatible with the buildings and environment with which they are related. (2) The general design, scale, gross volume, arrangement of site plan, texture, material and exterior architectural features of new construction shall be in harmony with its surroundings and shall not impair the "tout ensemble" of the neighborhood. (3) No one architectural style shall be imposed. (4) Quality and excellence in design should be major determinants.

B. For exterior alterations. (1) All exterior alterations to a building shall be compatible with the building itself and other buildings with which it is related, as provided in A(2) above and in applying these standards, the original design of the buildings may be considered. (2) Exterior alterations shall not affect the architectural character or historical quality of the building.

C. For signs. (1) The scale and design of any sign should be compatible with the buildings and environment with which it is related. (2) The materials, style, and patterns used in any sign should be compatible with the buildings and environment with which it is related.

D. Demolition. In considering an application for the demolition of a landmark or a building in an historic district, the following shall be considered: (1) The historic or architectural significance of the building. (2) The importance of the building to the "tout ensemble" of the district. (3) The special character and aesthetic interest that the building adds to the district. (4) The difficulty or impossibility of reproducing such a building because of its design, texture, material or detail. (5) The future utilization of the site.

E. Destruction of non-conforming use. The reconstruction of buildings legally non-conforming as to use and destroyed by fire, storms, or other acts of God shall be governed by the provisions of the zoning ordinance except that the Commission shall regulate the exterior design of such buildings.

## Section IX. Landmark Powers.

The Commission shall exercise the following powers:

A. (1) to name or designate a building together with its accessory building(s) and its lot(s) of record or any part thereof, or to name or designate vacant sites not in excess of five (5) acres as historic and worthy of preservation as a landmark within the jurisdiction of the Commission; (2) buildings and sites not encompassed by (1) of this subsection may be designated as a landmark by the Commission, but such determination shall be ratified by a majority vote of the City Council.

B. to recommend appropriate legislation for the preservation of any building, structure, site, monument, area or other landmark which it has so named or designated;

C. to make application for public and private funds when appropriate and available;

D. to review applications proposing erection, alteration, restoration or moving of any building, structure, site, monument, area or other landmark which it has so named and designated, and to issue or deny Certificates of Appropriateness accordingly;

E. to review all applications for demolition permits proposing demolition of all or part of any buildings, structure, monument or other landmark which it has so named and designated, and to issue Certificates of Appropriateness or to deny them for one year;

F. to work with the owner of landmark property throughout the year following a refusal to issue Certificates of Appropriateness pursuant to an application for a demolition permit, and to seek alternative economic uses for the landmark property;

G. to renew its denial of a Certificate of Appropriateness for demolition of landmark property for additional one year periods indefinitely thereafter, following a public hearing each time at which the owner of the affected property shall be afforded an opportunity to appear with counsel and to present testimony;

H. to prohibit the issuance of demolition permits affecting any property under consideration for landmark designation, said prohibition to remain in effect for the length of time required by the Commission for final action on the proposed landmark; and

I. to prohibit the issuance of building and exterior remodeling permits affecting any property under consideration for landmark designation unless: (1) the Commission's staff has determined that the application is for ordinary maintenance and repairs or for modifications which have been determined to be more appropriate to the style and period of the building by means of documenting the original appearance of parallel structures, or (2) the Commission has determined that the application conforms with the criteria set forth in Section VIII of this ordinance, said prohibition to remain in effect for the

length of time required by the Commission for final action on the proposed designation. In all instances the Commission shall regulate the exterior of a landmark.

#### Section X. Landmarks Designation Procedure.

A. The following procedure shall be adhered to in designating any building, structure, site, monument, or other landmark that is worthy of preservation: (1) the Commission shall consider for landmark designation any property proposed by motion of any Commission member and seconded by two additional Commission members, or by the owner of proposed property. (2) Notice of a proposed designation shall be sent by registered mail to the owner of property proposed for landmark designation, describing the property proposed and announcing a public hearing by the Commission to consider said designation. (3) The Commission shall also send notice of a proposed designation to all city agencies having previously requested notification of such proceedings; to the landmark area advisory board in whose area the proposed landmark is located, if any exists; and to other parties customarily informed by the Commission of such proceedings. (4) The Commission shall also cause notice of the proposed designation to be published at least once at least thirty (30) days prior to the public hearing in the official journal of Orleans Parish and shall post notice of the hearing in the place where the Commission meets, and in addition, such notice may be also published in a newspaper having general circulation in Orleans Parish. (5) The Commission may solicit expert testimony regarding the historic and architectural importance of the building, structure, site, monument, area, or other landmark under consideration for designation. (6) The Commission may present testimony or documentary evidence of its own to establish a record regarding the historic and architectural importance of the proposed landmark property. (7) The Commission shall afford to the owner of said property reasonable opportunity to present testimony or documentary evidence regarding the historic and architectural importance of the proposed landmark property. (8) The owner of property proposed for landmark designation shall be afforded the right of representation by counsel and reasonable opportunity to cross examine witnesses presented by the Commission. (9) Any interested party may present testimony or documentary evidence regarding the proposed landmark designation at the public hearing and may submit to the Commission documentary evidence within three (3) days after the hearing. (10) Within not more than forty-five (45) days after a public hearing, the Commission shall render a final decision regarding the proposed designation and shall give written notice of its decision to the owner of the property proposed for designation setting forth the reasons thereof. (11) The Commission shall maintain a record of all testimony and documentary evidence submitted to the Commission for consideration of a proposed landmark designation. (12) In accord with Section IX, A(2) of this Ordinance, the City Council may ratify the determination of the Commission prior to the classification of a property, as defined in Section IX, A(2), as a landmark at a regular or special meeting of the City Council. (13) Within thirty (30) days of the date on which the Commission designates or the City Council ratifies, as the case may be, any building, structure, site or monument as a landmark worthy of preservation, the Commission shall cause to be filed in the conveyance office of Orleans Parish a certificate of notification that such property is designated a landmark, and said certificate of notification shall be maintained on the public records until such time as the landmark designation may be withdrawn by the Commission or the City Council.

B. At such time as a landmark or landmark site has been finally established in accordance herewith, the Commission may cause to be prepared and erected on the landmark or landmark site a suitable plaque declaring that such is a landmark or landmark site.

#### Section XI. Additional Commission Powers.

The Commission shall have the following additional powers:

Make periodic reports to the City Council; provide information to property owners and others involving the preservation of the district; suggest pertinent legislation; recommend planning and zoning proposals; cooperate with other regulatory agencies and civic organizations and groups interested in historic preservation; review all applications for zoning variances, changes and conditional uses where they affect the district; render advice with reference to sidewalk construction and repair, tree planting, street improvements, and also the renovation, restoration, or construction of public buildings; furnish information and assistance in connection with any capital improvements program involving the historic area; consult with the National Trust for Historic Preservation and other expert groups; administer such financial mechanisms as the City Council may establish for the welfare of the City within a district; and collect fees subject to City Council approval; appoint advisory boards from time to time; and promulgate operational rules and procedures which said rules and procedures shall be submitted to the City Council for ratification in order for the Commission to implement the powers and authority granted to the Commission by the ordinance.

#### Section XII. Demolition by Neglect.

In the event the Commission determines that a building or landmark is being "demolished by neglect," they shall notify the applicant of this preliminary finding, stating the reasons therefore, and shall give the applicant thirty (30) days from the date of notice in which to commence work rectifying the specifics provided by the Commission. Such notice shall be accomplished in the following manner: (1) by certified mailing to the last known address of applicant; or (2) in the event the procedure outlined in (1) above is not successful, then such notice shall be attached to the building or landmark twice within a week.

Upon applicant's failing to commence work, the Commission shall notify the applicant in the manner provided above to appear at the next public hearing of the Commission. The Commission's staff or representative shall present to the Commission at said public hearing the reasons for the notice, and applicant shall have the right to present any rebuttal thereto. If, thereafter, the Commission shall determine that the building or landmark is being "demolished by neglect," and no efforts made to preserve it, the City may, through the Director of the Historic District Landmarks Commission or other appropriate officer of said Commission, bring charges against the applicant for the violation of this ordinance, and the City may cause such property to be repaired at its expense at such time as funds are appropriated; and in which event the City may file an affidavit of the Director of the Historic District Landmarks Commission to this effect in the office of the Recorder of Mortgages for the Parish of Orleans, which said notice shall constitute a lien and privilege against the property.

#### Section XIII. Commission Enforcement Powers.

Upon request, the Department of Safety and Permits may aid the Commission in making all necessary inspections in connection with the enforcement of this ordinance, and furnish the Commission with copies of the reports of their inspections. Employees of the Department of Safety and Permits shall have the same right to inspect premises in connection with the enforcement of this ordinance as they now have in relation to zoning and other violations under the jurisdiction of such department.

It shall be the duty of the Commission, through its Director or other appropriate officer, to send notices to all persons who may be in violation of the provisions of this ordinance or the rules and procedures of



the Commission and inform them of such violations. If such a violation has been noted and the owner informed of the violation, and said violation has not been corrected within ten (10) days, a second notice shall be sent giving the owner five (5) days within which to comply or demonstrate an intent to comply. If such second notice has not been complied with, then it shall be the duty of the Commission through its Director to prosecute or to cause to have prosecuted such violations of this ordinance in the Municipal Court of the City, or such other court of competent jurisdiction as may be proper, either civil or criminal.

Failure to comply with the provisions of this ordinance or the rules and procedures of the Commission shall constitute a violation hereof and may be punishable by a fine not less than fifty (50) dollars nor more than one hundred (100) dollars per day for each day that the violation continues.

The Commission, through its Director or other appropriate office, shall have the right to enforce any violations of this ordinance or the rules and procedures of this Commission by civil action for injunctive relief or to implement any other appropriate remedy brought on in the name of the City of New Orleans including the stoppage of any work attempted without or contrary to a Certificate of Appropriateness issued under this ordinance.

#### Section XIV. Appeals.

A. Any person or persons aggrieved by any decision, act, or proceeding of the Commission shall have a right to apply in writing to the City Council for reversal or modification thereof; and the President of the City Council shall have the right to stay all further action until the City Council may affirm a decision of the Commission by majority vote of all its members. Any such appeal shall be taken within ten (10) days from the date of decision; and the City Council has the right to reverse, change, or modify any decision of the Commission only by a majority vote of all its members.

B. Any person or persons aggrieved by any decision of the City Council affecting said district shall have the right to file a civil suit within thirty (30) days from the date of decision in a court of competent jurisdiction under the usual rules of procedure governing same with the right to stay orders and injunctive relief provided the situation warrants it.

#### Section XV. Applicability of Commission Powers.

The regulatory powers conferred upon the Commission shall apply to all private property in the area controlled by the Commission, including all buildings, structures, areas, sites and their adjuncts and appurtenances, insofar as they constitute part of the entirety or "tout ensemble" of a district or landmark site; except public and private utility facilities of South Central Bell Telephone company and New Orleans Public Service Inc., located on public or private property, provided, however, that this exception shall not apply to electric substations and telephone exchanges. Any governmental agency, other than the City Council, having a responsibility for any building, structure, area, site, public way and their adjuncts and appurtenances within a district or landmark site shall seek the advice of the Commission prior to the initiation of any substantive change, modification, renovation, restoration, alteration, construction, or demolition.

#### Section XVI. Severability Clause.

If any provision or item of this ordinance or the application thereof is held invalid, such invalidity shall not affect other provisions, items, or applications of this ordinance which can be given effect without the invalid provisions, items or applications and to this end the provisions of this ordinances are hereby declared severable.

Section XVII. Repeal.

This ordinance may be repealed and the Commission thereby abolished by a majority vote of the City Council. (Note: The amended Home Rule Charter of the City of New Orleans which was approved at an election on November 18, 1995, and became effective on January 1, 1996, now includes the Historic District Landmarks Commission, making this section invalid.)

Adopted by the Council of the  
City of New Orleans  
June 24, 1976  
Frank Friedler, Jr.  
Vice President of Council

Delivered to the Mayor on June 24, 1976  
Approved: July 2, 1976  
Moon Landrieu  
Mayor

Returned by the Mayor  
on July 2, 1976 at 3:32 P.M.

Joseph C. Peterson  
Clerk of Council